***THE HONOURABLE SRI JUSTICE V.V.S.RAO**

+WRIT PETITION No.22466 of 2005

%21-10-2005

A. Rattaiah, S/o.Venkataiah, Pedakurapadu, Guntur District.

…PETITIONER

Vs.

$ The Election Officer, Primary Agriculture Cooperative Society,

Parasatyalluru, Pedakurapadu Mandal, Guntur District, A.P.

And another.

..RESPONDENTS

! COUNSEL FOR PETITIONER: Mr.NUTHALAPATI KRISHNA MURTHY

^ COUNSEL FOR RESPONDENTS: GOVERNMENT PLEADER FOR CO-OPERATION

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>HEAD NOTE:

?CASES REFERRED:

THE HON'BLE SRI JUSTICE V.V.S.RAO

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DATED 21.10.2005

Between:

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AND

The Election Officer, Primary Agriculture Cooperative Society,

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THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22466 of 2005

ORDER:

The petitioner is a resident of Pedakurapadu Village and Mandal in Guntur District. He is allegedly a member of Primary Agricultural Cooperative Society (PACS), Parasathyalluru with membership/general No.864 in the Society. He filed the instant writ petition seeking a direction to the Election Officer, PACS, Parasathyalluru and District Collector-cum-Election Authority, Guntur to hold elections for Managing

Committee of the said PACS by providing polling stations in various villages in addition to the polling station at Thyalluru village.

The case of the petitioner in brief may be noticed. Sometime back, there was PACS in Lingamguntla at the distance of 3 K.Ms from Pedakurapadu. The area operation of Lingamguntla PACS comprised 10 villages with 2,580 members/voters. The said society was ordered to be amalgamated with PACS, Parasathyalluru. The area operation of the said society is now comprised in 19 villages. There are 13 constituencies/ members in the Managing committee of the Society and 4,786 voters.

The Election Officer issued election notice prescribing election schedule and the election as per the schedule is to be conducted on 22.10.2005. For the purpose of polling, the Election Officer has decided to establish only one polling station at Thyalluru. The election authorities for the sake of convenience of voters/members in other societies of Nadendla, Annavaram, Subrayapalem, Ikkurthi, Nakarakallu and Veerapuram of Narasaraopet Division have established polling stations in the respective villages whereas for all the 19 villages in the area opeation of PACS, Parasathyalluru only one polling station is established. It is also alleged by the petitioner that there are 1,440 voters in Pedakurapadu and Lingamguntla has 306 voters. When the previous elections were held on 16.4.1997 for PACS, Lingamguntla by establishing polling station at Lingamguntla, Pedakurapadu and Lagadapadu villages, for the present elections polling stations are not established, though there are elementary and High school buildings and other facilities in these places. The petitioner approached the authorities for redressal, in vain. The decision to conduct polling at only one polling station at Talluru is illegal and arbitrary.

The matter was initially listed before this Court on 18.10.2005. This Court adjourned the matter to this day. When the matter was called in the Forenoon, this Court directed the learned Government Pleader for Cooperation to get instructions in the matter regarding the feasibility of establishing more number of polling stations. After getting instructions in the matter, the learned Government Pleader made submissions in the Afternoon opposing the various and contentions raised by the learned Counsel for the petitioner.

It is submitted by the learned Government Pleader that petitioner alone raised objection for holding elections at the polling station at Thyalluru though there are more than 4,700 voters. He also submits that the authorities have made all arrangements for establishing 13 polling booths at Z.P. High School, Parasathyalluru and if more number of polling stations are to be established on the eve of polling commencing on 22.10.2005 at 7.00 a.m., it would cause inconvenience to the administration. He also submits that the Election Officer issued election notice on 06.10.2006 notifying the polling station at Thyalluru. If more number of polling stations are to be established, all the voters/members of PACS residing in various other villages have to be notified and it may not be possible to inform all the voters at a short time. Lastly, he submits that out of 19 villages in the area operation of PACS, 3 villages are faction villages and all the villages are situated within a distance of 3 to 5 KMs from Thyalluru polling station by reason of

which there would not be any inconvenience to the voters.

This Court after giving anxious consideration to the case and considering all aspects in the matter observes that Election Authority/Election Officer, the first respondent herein, on whom A.P. Cooperative Societies Rules, 1964 (the Rules, for short) confer power, has not taken into consideration the relevant factors while deciding the place/places of polling stations but being aware that any interference, at this late hour; just 16 hours before commencement of polling – the same would cause any amount of inconvenience to the administration and also results in many more complications, this Court therefore is not inclined to exercise any discretion in favour of the petitioner. The reasons for this conclusion in brief are as under.

The elections to cooperative societies registered under A.P. Co-operative Societies Act, 1964 (the Act, for short) are to be conducted in accordance with Rules, which are amended from time to time. Rule 22 of the Rules deals with conduct of elections to cooperative societies. The Government of A.P. issued in G.O.Ms.No.223 Agricultural and Cooperation Department, dated 27.6.2005 and G.O.Ms.No.324, dated 29.7.2005 amending Rule 22. Sub-rule (9) of Rule 22 provides the procedure for "voting and declaration of results". It has clauses (a) to (l). Clauses (a), (b), (d) and (e) to sub-rule (9) of Rule 22 of the Rules read as under.

22(a) Voting and Declaration of Results:

a. **Voting and Declaration of results**: If the number of the candidates whose nominations are valid does not exceed the number of vacancies to be filled by election, the election officer shall declare them to have been duly elected as managing committee members on the date and time on which the final list of valid nominations are published. If for any area or constituency for which election is to be held, the number of candidates whose nomination papers have been declared valid, does not exceed the number of candidates to be elected for that area or constituency the Election Officer shall forthwith declare them to have been duly elected. The term of the Office of such candidates shall be reckoned from the date of declaration of elections as notified by the election officer in Form-I or publication of final results by the election officer. If the number of candidates, whose nominations are valid exceeds the number to be elected for any area or constituency, **the election officer shall arrange for conducting a poll at the place on the date and time and at the place fixed for the purpose**.

b. A candidate contesting the election, may, by a letter to the election officer, appoint an agent to represent him where polling is held. Request for appointing agents shall be made in Form-IX. The agent as well as the candidates shall be given a pass, which will authorize the candidate and the agent to enter polling booth and counting center. **The pass for the agent will be valid for the booth allotted to him and he is prohibited to move from booth to booth or canvassing within the 200 mts of the premises where the booth is located**. On the date of polling where polling is held in more than one booth a candidate will be permitted to appoint his agent to be present in the booth to assist the polling officer in identification of voters. **Such an agent will not be allowed to move from one**

booth to the other and such an agent shall display his pass on his person during his presence in the booth. The candidate and his agent, if any, shall always display their pass on the person during the entire process of election.

d. **The requirement of number of booths and number of voters allotted to each booth be determined by the competent election authority**.

e. **Election Officer may appoint as many officers to conduct the poll as necessary but there shall be one presiding officer and two polling officers per booth such that**

a. One Polling Officer will identify and verify the voters list.

b. One Polling Officer will apply indelible ink on the middle finger of the left hand or as directed by the Registrar as the case may be and issue Ballot Paper to the voter.

The Presiding Officer shall conduct all the proceedings at the booth, i.e., preparing and sealing boxes, custody and maintaining records at the booth, as well as safety of election material, i.e., ballot paper and boxed after polling and ballot boxed till they are delivered to the Election Officer.

(emphasis supplied)

A reading of the above clauses in sub-rule (9) of Rule 22 together would show that in an election for cooperative society, there can be more than one polling booth. Under clause (a), it is the election officer, who has to fix the number of booths and the place where election is to be held. Though Rule 22 (9)(a) uses singular word “place”, having regard to other clauses, it is reasonable to construe the word “place” as “places”. Thus, it becomes clear that if there is a need for election, the competent officer shall decide the places where polling booths will be established and enforce the relevant regulation during the time of polling. Clause (d) of sub-rule (9) of Rule 22 confers such power on the “**competent election authority**”. Rule 22(2) specifies the election authorities and election officers for various classes of societies, which reads as under.

Appointment of Election Officers:

a. The Registrar and the Collector of the District shall be the election authority to society or class of societies and the election officer shall be from the class of other specified in the Table below.

Election Authority	Election Officer	Class of Society

1. Registrar	1. Officer of the Co-operative Department not below the rank of Deputy Registrar2. Any Gazetted Officer.	1. Societies specified in Section 31(3)(a) of Andhra Pradesh Co-operative Societies Act, 1964.2. Any society to be so specified by the Government.
2. District Collector of the District in which Head Office of societies is situated	Any employee of the Government.	All other classes societies in the District except those specified under item (1) and (2) above.

For all classes of societies other than the societies in respect of which the Registrar is the competent election authority, it is the District Collector, who is prescribed competent election authority.

A further reading of sub-rule (2) of Rule 22 would show that the election authority would appoint an election officer for each society, who will finalise the final list of voters and then issue the election schedule in Form-I along with final list of voters. In the format, the election authority is required to mention, at column No.5, the place or places, the time and date of poll. Having regard to Rule 22 (9) (d), it must be held that duty to decide the place or places where the polling booths should be established lies on the competent election authority i.e., the District Collector in a District and the election officer only mentions the place or places in column NO.5 of election notice in Form-I.

The learned Counsel for petitioner or learned Government Pleader for Cooperation have not placed any material before this Court as to who has decided that there should be only one polling station with number of polling booths at Thyalluru. Therefore, it is not possible for this Court to decide whether the District Election Authority has properly specified Thyalluru as the place of polling or the places where polling booths should be established. Be that as it is, a cooperative society is an essence of a democratic body intended to facilitate and strengthen ‘community regulation’ and control of resources by practicing thrift. Therefore it cannot be any effective democracy if large number of voters is prevented by whatever reason from voting in an election. Constitutional governance by practice of democracy under the Constitution of India is not and should not be a mirage. A democratic verdict of the people must not be guided and must not depend on the whims and fancies of the public authorities or a few private power mongering persons of the area. It is interesting to notice that Rule 2(A) of the Rules in more ways than one brings home the importance of practice of effective democracy in a cooperative society. It reads as under.

> **2-A. Co-operative Principles:-** (i) A cooperative is an association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly-owned and **democratically controlled enterprise**.

(ii) Basic Cooperative principles are :

a. **Voluntarily and Open Membership**:- Co-operatives are voluntary organizations, **open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination**.

b. **Democratic Member Control**: - **Cooperatives are democratic organizations controlled by their members, who actively, participate in their policies** and making decisions. Men and women serving as elected representatives are accountable to the membership.

c. **Member Economic Participation**:- **Members contribute equitably to, and democratically control**, the capital of their cooperative.

d. Autonomy and Independence:- Cooperatives are autonomous, self-help organizations controlled by their members.

e. **Education, Training and Information**:- Cooperatives provide education and training for their members, elected representatives, managers, and employees so that they can contribute effectively to the development of their cooperatives.

f. **Cooperation among Cooperatives**:- Cooperatives serve their members most effectively and strengthen the cooperative movement by working together through local, national, regional and international structures.

g. **Concern for Community**:- Cooperatives work for the sustainable development of their communities through policies approved by their members.

Values: **Cooperatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity**. In the tradition of their founders, cooperative members believe in the ethical values of honesty, openness, social responsibility and caring for others.

Democracy and people's participation are inseparable parts of cooperative movement. If there are about 5,000 voters and only one polling station away from their homes and the polling is to be completed within a period of 7 hours (from 7.00 a.m. to 2.00 p.m.) on the day of polling, it might not be a surmise that many people might be prevented from coming to the place of polling for various reasons. But, as noticed herein above, except the petitioner, who claims to be an Ex-President of PACS, Lingamguntla, most of the people did not make any attempt to ventilate the grievance. The 'silent suffering' by the voiceless people does not mean tacit approval of the decision by public authority. At least now the Government of A.P. or the Commissioner of Cooperative Societies must look into these aspects and rectify such anomalies for the benefit of people in future so that the Constitution's preambular promise of democracy shall be redeemed fully and effectively.

The writ petition, with the above observations, is dismissed. No costs.

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(**V.V.S. RAO**,**J**)

October 21, 2005.

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To

One fair copy to the Hon'ble Mr.Justice V.V.S.Rao (for his Lordships kind perusal)

1. The Election Officer, Primary Agriculture Cooperative Society,

   Parasatyalluru, Pedakurapadu Mandal, Guntur District, A.P.

2. The District Collector-Cum-Election Authority, Guntur District, Guntur, Andhra Pradesh.

3. Under Secretary, Union of India, Ministry of Law, Justice and Company

Affairs, New Delhi.

4. The Secretary, A.P.Advocates Association Library, High Court Buildings, Hyderabad.

5. 2 CCs to the G.P. for Cooperation, High Court Buildings, Hyderabad (OUT).

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